

REMARKS

Claims 1-32 are pending and claims 1-32 stand rejected. By virtue of this response, no claims have been cancelled or added, and claims 1, 3, 18, and 26 have been amended. Accordingly, claims 1-32 are currently under consideration. Support for the amendment to the claims is fully supported by the specification as filed; accordingly, no new matter has been added. Further, amendment of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented.

For the Examiner's convenience, Applicants' remarks are presented in the same order in which they were raised in the Office Action.

Claim Rejections under 35 USC §112

The Office Action states that with respect to claim 3, lines 1-2, the phrase "the reference location is associated with an expected position of a volume of the optical article" is unclear in its meaning. In particular, it is unclear what exactly is the relative relationship or association between "a location" and "a volume."

Applicants have amended claim 3 herein to remove the recitation of a "volume" and recite that the reference location is associated with an expected position "within" the optical article. Support for this amendment is found, e.g., in paragraph [0027] of the present application; accordingly, no new matter has been added. Applicants believe that claim 3 is now clear and request the rejection be withdrawn.

Claim Rejections under 35 USC §102

Claims 1-4, 6, 7, 14-20, 24-26, and 29 stand rejected under 35 U.S.C. 102(b) as being anticipated by Migeotte (U.S. Patent No. 3,688,235).

Applicants submit that the features of claim 1, as amended, are not disclosed or suggested by Migeotte. In particular, Applicants have amended claim 1 to recite a system for

measuring a characteristic of an optical article comprising, *inter alia*, a processor configured to receive signals from the sensor and “determine a deflection angle and a direction of the deflection angle of the light from the probe path.” This amendment is supported in the present application at least by paragraphs [0023], [0029]-[0031], and [0045] (e.g., determining a deflection angle and direction based on an intensity centroid of the beam incident the detector), and Figs. 1-3.

Accordingly, no new matter has been added by the amendment. Similarly, independent claims 18 and 26 have been amended similarly to claim 1 to recite determining or detecting a deflection angle and a direction of the deflection angle.

In contrast to the above recited features of claim 1, Migeotte discloses a system for determining the level or extent of angular deflection imparted by a sheet of transparent material by detecting a “beam at a location whose relation to the path which would be followed by such light beam if no transparent sheet material were present is such that the flux level of the portion varies as a function of the degree of angular deflection of the beam.” (Migeotte: Col. 2, lines 6-37; the Abstract). As shown in Fig. 1 and described generally from column 3, line 29 to column 4, lines 36, beam 18 is incident an opaque screen 20 having an opaque central circular area 22 surrounded by an annular opening 21 for the passage of light. The amount of light passing through annular opening 21 varies based on the deflection angle of beam 18, but the amount of light passing therethrough is irrespective of the direction of the deflection angle of beam 18. Further, photoelectric cells 24 and 28 are connected to circuit 24 and produce an output signal that represents a measure of angularity without mention of the direction of the angle (see, in particular, column 4, lines 30-36). Therefore, the system and method disclosed by Migeotte is such that the “extent to which the light flux on cell 24 is reduced is a measure of the degree of angularity of the sheet 12.” (Migeotte: Col. 5, lines 48-50; see also, col. 5, lines 25-58). Such a disclosure fails to disclose or suggest that the direction of the deflection is or may be determined by the disclosed system and method.

Applicants note that Migeotte discloses modified shapes for the light mask and measuring cell screen as shown in Figs. 2a, 2b, 3a, and 3b to increase sensitivity to angularities normal (or perpendicular) to boundary 31 (Migeotte: col. 6, lines 15-19). Such disclosure, however,

fails to disclose or suggest a processor for determining the deflection angle and a direction of the deflection angle of the light as recited by amended claim 1.

Therefore, for at least these reasons, Migeotte clearly fails to disclose or a system or method for determining a deflection angle and a direction of the deflection angle as recited by claim 1. Accordingly, Migeotte fails to anticipate claim 1 and the rejection should be withdrawn. Additionally, claims 2-17 depend from claim 1 and are allowable over Migeotte for at least similar reasons as claim 1.

Independent claims 18 and 26 have been amended similarly to claim 1 and are allowable over Migeotte for at least similar reasons as claim 1. Additionally, claims 19-25 and 27-31, which depend from claims 18 and 26, are allowable over Migeotte for at least similar reasons as claims 18 and 26.

Further, with regard to claim 24, Applicants disagree with the Examiner's assertion that Migeotte discloses confocally imaging the light after the light interacts with the optical article. The Examiner refers to Fig. 1 of Migeotte for this feature, however, neither Fig. 1 nor the accompanying disclosure discloses or suggests confocally imaging the light after interacting with sheet 12. For example, the figure and description do not disclose explicitly or inherently that the light is being confocally imaged. Applicants note that merely placing an aperture in the beam path fails to disclose or suggest that the light is confocally imaged, and the Examiner has provided no evidence or line of reasoning to support the assertion that such a feature is disclosed. Therefore, the rejection to claim 24 should be withdrawn for this additional reason.

Further, with regard to claim 25, Applicants disagree with the Examiner's assertion that Migeotte discloses that the light is confocally filtered after the light interacts with the optical article. The Examiner refers to Fig. 1 and screens 20, 26 of Migeotte for this feature; however, merely placing an aperture in the beam path fails to disclose or suggest confocal filtering. Again, the Examiner has provided no evidence or line of reasoning to support the assertion that this feature is disclosed. Further, Applicants submit that neither Fig. 1 nor the use of screens 20, 26 disclose or

suggest confocal filtering as recited by claim 25. Therefore, the rejection to claim 25 should be withdrawn for this additional reason.

Claim Rejections under 35 USC §103

A. Claims 5, 8, 9, 27, and 28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Migeotte (U.S. Patent No. 3,688,235).

Claims 5, 8, 9, 27, and 28 depend ultimately from independent claims 1 and 26 and are allowable over Migeotte for at least similar reasons stated above. Accordingly, Applicants request the rejection be withdrawn.

Furthermore, with regard to claim 8, Applicants submit the Examiner has not provided a sufficient rationale for modifying Migeotte to meet the features of claim 8, and has therefore failed to present a *prima facie* case of obviousness. In particular, the Examiner has not identified anything in the prior art that would suggest modifying Migeotte such that the characteristic includes an index of refraction value, and appears to merely be relying on hindsight analysis. For example, the Examiner states that modifying Migeotte would be obvious “to enable the system to acquire more optical information and/or the optical properties of the optical article.” It is well established that the Examiner may not combine references to create an obviousness rejection unless there is some suggestion or motivation in the prior art or knowledge generally available to one of ordinary skill in the art to make the combination. MPEP § 2143. In this instance, the rejection does not rely on the prior art or the knowledge generally available to one of ordinary skill in the art. Accordingly, the rejection clearly lacks any evidence of a motivation for the proposed combination to meet the features of claim 8 such as a reference or affidavit of the Examiner’s personal knowledge. See, 37 CFR 1.104(d)(2). The rejection therefore fails to provide a *prima facie* case of obviousness and the rejection must be withdrawn.

Further, as discussed herein, Migeotte discloses a system for measuring a deflection angle, but not the direction of the deflection angle. Measuring a deflection angle alone does not disclose or suggest that the system of Migeotte would be suitable for measuring an index of

refraction value of an optical article. Accordingly, Applicants submit Migeotte does not suggest measuring an index of refraction value of an optical article and the rejection should be withdrawn.

B. Claims 21-23 and 30-32 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Migeotte (U.S. Patent No. 3,688,235) in view of Klein et al. (U.S. Patent No. 6,134,011).

Claims 21-23 and 30-32 depend ultimately from independent claims 18 and 26 and are allowable over Migeotte for at least similar reasons stated above. The addition of Klein fails to cure the deficiencies of Migeotte, nor is Klien alleged to. Accordingly, Applicants request the rejection be withdrawn.

C. Claims 10-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Migeotte (U.S. Patent No. 3,688,235) in view of Fanton et al. (U.S. Patent No. 5,181,080).

Claims 10-13 depend ultimately from independent claim 1 and are allowable over Migeotte for at least similar reasons stated above. The addition of Fanton fails to cure the deficiencies of Migeotte, nor is Fanton alleged to. Accordingly, Applicants request the rejection be withdrawn.

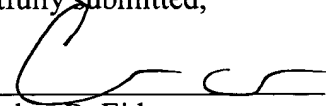
CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 495812005700. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: June 22, 2006

Respectfully submitted,

By 
Christopher B. Eide

Registration No.: 48,375
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
(650) 813-5720